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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,048	02/02/2005	Siegfried Ebenhoch	3175	7566

7590
Striker Striker & Stenby
103 East Neck Road
Huntington, NY 11743

01/24/2008

EXAMINER

LANDRUM, EDWARD F

ART UNIT	PAPER NUMBER
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3724

MAIL DATE	DELIVERY MODE
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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/523,048	Applicant(s) EBENHOCH, SIEGFRIED	
	Examiner Edward F. Landrum	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abraham et al (International Publication No. WO 02/32314 A1), hereinafter Abraham, in view of Hildebrandt (German Patent No. 3310706 A1).

Abraham teaches (see Figures 1-8) a hair-cutting machine (10) with a handle (20) that has a front end. A cutter head (50) is disposed on the front end of the handle (20). The cutter head has a stationary blade (55) and an oscillating blade (57) disposed above the stationary blade while the hair-cutting machine is disposed in an operating position where the handle (20) is held vertically and the front end of the handle is located below the rest of the handle (20). A cutting plane is formed by the cutting blades (55 and 57) and is capable of being inclined in relation to a longitudinal axis of the handle. In the operating position as described above the cutting plane can be inclined downward and to the left of the longitudinal axis of the handle (20). Abraham further teaches that the inclination angle of the cutting plane is adjustable (see Figures 4-8) and therefore is inherently capable of having a positive inclination angle of 30 degrees between the cutting plane and the longitudinal axis of the handle. Furthermore, Figure 3 shows that the cutter head (50) is interchangeable, and Figures 5-8 show that

a flat covering (handle portion of handle 20 to the left of reference numeral 57) is provided for the oscillating blade (57).

Abraham teaches all of the elements of the current invention as stated above except the oscillating blade being adjustable in relation to the stationary blade in a longitudinal direction of the cutting plane.

Hildebrandt teaches (see English Abstract and Figure 2) that it is old and well known in the cutting art to provide adjustment means to adjust a moving cutting blade (16) in a longitudinal direction in relation to a cutting plane formed by the moving cutting blade (16) and the non-moving blade (17). The provided computer translation of the patent from the European Patent Office clearly states that the upper blade (16) is the moving blade (see last paragraph on page 1 along with the first paragraph of page 2).

It would have been obvious to have modified Abraham to incorporate the teachings of Hildebrandt to allow the oscillating blade to move in the longitudinal direction of the cutting plane with respect to the stationary blade. Doing so would allow a user to change the cutting height of the device thereby allowing a user to change the length of hair he or she wanted to remove without having to add on separate device to adjust the cutting height.

Response to Arguments

3. Applicant's arguments with respect to claims 10-15 have been considered but are moot in view of the new ground(s) of rejection.

Applicant does not provide enough structure in the claims to differentiate his device from the prior art. If applicant viewed Figure 10 of the instant invention upside

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down then the stationary blade would be positioned on top of the oscillating blade. An operating position can be any position that the device can cut hair, therefore number of operating positions the device could have is nearly limitless. While the positioning of the blades of Abraham may be opposite of Applicant's, the positioning of the blades of Abraham is opposite of the **claimed** invention, because as claimed Abraham still reads on claim 10, specifically the portion of claim 10 referring to the placement of the cutting blades with respect to the handle. If Figures 4-8 of Abraham are flipped upside down, the oscillating blade is above the stationary blade and the cutting plane formed by the two is inclined downwards with respect to the longitudinal axis of the handle.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wahl et al (U.S Patent No. 5,970,616), Maloy (U.S Patent No. 2,726,447), Parkin (U.S Patent No. 2,119,792), Yamada et al (U.S Patent No. 3,797,109), Wolf et al (U.S Patent No. 4,930,217), Proffitt (U.S Patent No. 3,217,409), Kubo (U.S Patent No. 5,325,589), Ogawa (U.S Patent No. 5,367,772), Melton (U.S Patent No. 5,579,581), and Lebherz et al (U.S Patent No. 6,260,276) teach elements of the current invention.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward F. Landrum whose telephone number is 571-272-5567. The examiner can normally be reached on Monday-Friday 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EFL
1/17/2008




BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER